Gentlemen,

In my email yesterday, I said it was easy for anyone who didn't want to comply with your requirements to avoid them. Today, I received the attached blast fax offering any loan originator who doesn't want to be bothered with licensing the opportunity to avoid licensing and your rules. As with all government regulations, it is easier for some people to dodge the rules than to comply.

In case anyone thinks this offer is unique, it isn't. It's just one of many ways to avoid complying with these rules. Anyone with any knowledge of the industry knows how easy it is to avoid the regulations. The fraudsters know it best. I get these kind of offers almost daily from various companies.

Thank you for the opportunity to be of service. Don't hesitate to call us
if you have additional questions, or if we can be of service in any other
way.

Don Opeka - President
Registered Colorado Mortgage Broker
Colorado Certified Mortgage Broker

Orion Mortgage, Inc.
10560 Wadsworth Blvd.
Broomfield, CO 80021
303-469-1254
800-404-0453
www.OrionMortgage.net
Don@OrionMortgageInc.com

----- Original Message -----
From: Don Opeka at Orion Mortgage, Inc.
To: regs.comment@federalreserve.gov
Sent: Monday, March 31, 2008 7:58 PM
Subject: Docket No. R-1305

Gentlemen,

It's my understanding that you have singled out mortgage brokers for new disclosures under Regulation Z. I can easily agree that consumer protections are appropriate, but there are several issues that seem to be overlooked:

Top of the list is the fact that you want a mortgage broker to define the dollar amount of the compensation before getting a loan application. This is equivalent to asking a builder to tell a buyer how much he will spend for a house before the buyer defines the house to be built. The mortgage broker has no idea of how much work is to be done before he gets a complete application and credit report. Even with an application, the work is not completely defined. We have an application on my desk now where the property value was questioned by the underwriter, and the borrower's income and assets did not match what was stated on the application. We've worked a month to get it done and still don't have an approval. The loan before this one, the loan amount changed, the down payment changed, the source of funds changed several times before the loan closed. I've had loan amounts drop by half from application to closing. With your proposal, the borrower will pay the higher dollar amount based on the original loan amount and will not get the benefit of lower pricing for a lower loan amount as we do now. Your proposal will simply increase my earnings. You will hurt the borrower, but help me.

Your proposal applies to mortgage brokers, but not other originators. This makes the rule very easy to dodge. As with the recent legislation in Colorado, there will be people offering ways to skirt the rule before it is implemented. Anyone who chooses not to comply can easily ignore the rule. The obvious question is how will you enforce the rule? How will you discover and prosecute a bank employee who pays illegal referral fees to unregistered "brokers" or real estate agents? How will you discover and prosecute a mortgage broker soliciting applications over the internet or by phone from a call center located outside the US? Until you can guarantee 100% compliance by people operating from outside the US, you are just shifting the competitive environment in favor of crooks located outside the US, and driving jobs out of the US. Much of the funding for US mortgages comes from outside the US. The obvious question is why should these companies wanting to fund US mortgages even bother with the US loan origination system? They could originate loans over the internet, via telemarketing, or email and completely bypass the entire US banking system. How would your driving the system in this direction protect US consumers?

Your proposal overlooks the fact that the only real difference between a mortgage broker and a mortgage bank employee is how their earnings are reported for tax purposes. A mortgage broker's earnings are reported on a Form 1099. A mortgage bank employee's earnings are reported on a form W-2. The loans are the same. Their compensation can be identical. The background checking of the originator can be identical. What is there about how the originator's earnings are reported to the IRS that should concern the borrower? I suggest that whatever disclosures a borrower receives should be the same regardless of who originates the loan, if the loans are the same. Under current rules, and your proposed rules, the disclosures are different, and create intentional confusion. Confusion is never good for the borrower. The best part of this proposal is that I'm already getting disclosure forms from my wholesalers that will make it easier to charge more in the future than I have been charging in the past.

Maybe what you really want is flat fee pricing so mortgage brokers get paid only from the borrower. With this system, you encourage mortgage brokers to work only for the borrower. Brokers can forget about any duties to the lender. This way brokers get paid to show borrowers how to take advantage of lenders. I don't think this is a good idea, but it is the direction you are advocating with this proposal. If you think there are problems in the system now, just wait and see what you are creating. Maybe they will call themselves mortgage coaches instead of mortgage brokers. As mortgage coaches, there would be no government regulation because their name would not appear anywhere in the loan file. If you think you have problems in the industry now, just wait till you turn the fraudsters into coaches. How will you find them?

Thank you for the opportunity to be of service. Don't hesitate to call us if you have additional questions, or if we can be of service in any other way.

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